

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

James M. Hays and Polly A. Hays

Plaintiff,

vs.

Ocwen Loan Servicing, LLC, et al.

Defendant.

No. 8:18-cv-00600

**MOTION TO AMEND PROGRESSION
ORDER**

COMES NOW the Plaintiffs, James and Polly Hays, by and through their attorneys and hereby respectfully requests the Court to amend the Progression Order filed on February 12, 2019, in order to extend the deadline for the parties to complete written discovery under Rules 33, 34, and 36 of the Federal Rules of Civil Procedure from July 12, 2019 to September 13, 2019, which is the deadline for depositions and to extend the related deadline to file motions to compel discovery from July 26, 2019, to October 7, 2019. In support of said motion Plaintiff's allege and state as follows:

1. The requested extension in no way prejudices the Defendants.
2. The information sought by Plaintiffs consists of the underlying loan documents and payment histories that are relevant to the loans at issue in the underlying action and Defendants should have those records readily available which could be easily produced to Plaintiffs.
3. Plaintiffs anticipated being able to obtain these requested loan records in other informal methods, but no records have been produced.
4. Plaintiffs could obtain said written records through depositions off officers and representatives of the Defendants, but such depositions would present an

unnecessary cost to each of the parties.

5. The requested extension in no way interfere with the other deadlines set forth in the Progression Order.
6. Plaintiffs have attempted to resolve the requested extension by contacting counsel for Defendants without the need of filing this Motion, but counsel for Defendants indicated that they would not agree to extend the requested deadlines.
7. Plaintiffs states that the underlying loan documents to be requested through written discovery if this Motion is granted are crucial to underlying the nature of these transactions and go to the merits of the case. Plaintiffs will be substantially prejudiced if they are unable to review these loan documents prior to resolution of this case.
8. Plaintiffs' counsel has received voluminous records mailed from the Defendants, often nearly each business day, and Plaintiffs incorrectly believed that the needed records were in those voluminous documents, but after further review those records were not provided by Defendants. Plaintiffs' counsel believes it has acted with due diligence in trying to maintain updated records for all of the voluminous loan documents provided by Defendants and respectfully requests that the Court find good cause has been presented to extend theses deadlines to obtain these needed records.
9. Plaintiffs state that it will serve its written discovery requests simultaneous to any Order granted by this Court amending the Progression Order.

WHEREFORE, the Plaintiffs pray that the Court enter an Order amending the Progression Order filed on February 12, 2019 to extend the deadline for completing written

discovery under Rules 33, 34, and 36 of the Federal Rules of Civil Procedure from July 12, 2019 to September 13, 2019; to extend the deadline to file motions to compel discovery from July 26, 2019 to October 7, 2019; and for such further relief as deemed just and equitable by the Court.

JAMES M. HAYS and POLLY A. HAYS,
Plaintiffs

By: /s/ Luke T. Deaver
Luke T. Deaver, NSBA #23532
John A. Sauder, NSBA #26387
For: DEWALD & DEAVER, P.C. L.L.O.
PO Box 466 – 413 East Avenue
Holdrege, Nebraska 68949
Phone - (308) 995-8848
Fax – (308) 995-6555
luke@holdregelaw.com
john@holdregelaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of August, 2019, a true and correct copy of the foregoing was served upon the Defendants via the Court's CM/ECF system, which will serve a copy of all electronic filing participants.

/s/ Luke T. Deaver
Plaintiffs' Attorney